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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,913	04/08/2004	Daniel Kletensky	10541-2028	8759
29074	7590	01/16/2007		
VISTEON			EXAMINER	
C/O BRINKS HOFER GILSON & LIONE			NEGRON, ISMAEL	
PO BOX 10395				
CHICAGO, IL 60610			ART UNIT	PAPER NUMBER
			2875	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/16/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/820,913

Applicant(s)

KLETENSKY ET AL.

Examiner

Ismael Negron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

### ***Response to Amendment***

2. Applicant's amendment filed on November 7, 2006 has been entered. Claim 2 has been amended. No claim has been cancelled, or added. Claims 2-5 are still pending in this application, with claim 2 being independent.
3. The drawings were received on October 16, 2006. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5 are rejected under 35 U.S.C. 103(a) as unpatentable over

MOCHIZUKI et al. (U.S. Pat. Pub. No. 2002/0097585).

5. MOCHIZUKI et al. discloses a vehicle headlamp having:

- **a low beam operational mode (as recited in Claim 2), paragraph 47, lines 1-7;**
- **a high beam operational mode (as recited in Claim 2), paragraph 47, lines 1-7;**
- **a low beam light chamber (as recited in Claim 2), Figure 1, reference number 13;**
- **a high beam light chamber (as recited in Claim 2), Figure 1, reference number 19;**
- **the low beam light chamber having a discharge light source (as recited in Claim 2), Figure 1, reference number 16;**
- **a vertical adjusting action member (as recited in Claim 2), Figure 2, reference number 11;**
- **the low and high beam light chambers being vertically adjusted by means of the vertical adjusting action member (as recited in Claim 2), as evidenced by Figure 2;**
- **a horizontal adjusting action member (as recited in Claim 2), Figure 2, reference number 23;**

- **the low beam light chamber being horizontally adjusted by means of the horizontal adjusting action member (as recited in Claim 2), as seen in Figure 2;**
- **the vertical adjusting action member forming part of an automatic adjusting system (as recited in Claim 2), paragraph 43; and**
- **the horizontal adjusting action member forming part of a mechanism allowing the horizontal swiveling of the low beam light chamber (as recited in Claim 3), inherent; and**
- **a halogen light source provided in the high beam light chamber (as recited in Claim 5), Figure 1, reference number 20.**

6. MOCHIZUKI et al. discloses all the limitations of the claims, except the automatic adjusting system being an automatic vertical adjusting system (as recited in Claim 2), or the switching of the halogen light source being delayed after switching on the high beam light operation mode (as recited in Claim 4).

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the operation of the manually actuated vertical adjusting action member of MOCHIZUKI et al. (as recited in Claim 2), since it has been held by the courts that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art, as it requires only ordinary skill in the art. *In re Venner*, 120 USPQ

192 (CCPA 1958). In this case, one would have been motivated to perform such adjustment function in an easier and faster manner.

8. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to delay switching of the halogen light source after the high beam light operation mode is activated (as recited in Claim 4) to enable the adjustment of the light chamber to be executed before turning the light on and preventing a scanning illumination pattern.

#### ***Response to Arguments***

9. Applicant's arguments filed November 7, 2006 have been fully considered but they are not persuasive.

10. Regarding the Examiner's rejection of Claim 2 under 35 U.S.C. 102(b) as being anticipated by MOCHIZUKI et al. (U.S. Pat. Pub. No. 2002/0097585) (now rejected under 35 U.S.C. 103(a) as unpatentable over the cited reference), the applicant argues that automation of the manually actuated vertical adjusting action member of the cited reference fails to anticipate the claimed structure, the instant invention accomplishes an entirely different result than achieve manually by the prior art.

11. Regarding the Examiner's rejection of claims 3-5, the applicant present no arguments, except stating that such claims depend directly or indirectly from independent Claim 2 and would be allowable when/if the independent claim is allowed.

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12. In response to applicant's arguments that the manually actuated vertical adjusting action member of MOCHIZUKI et al., if automated, would performed a different function than that of applicant's invention, the applicant is respectfully advised that, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). In this case, MOCHIZUKI et al. discloses a manually actuated vertical adjusting action member 11 for adjusting the direction of illumination of a high beam illuminator chamber 19 in a vertical direction. While the applicant might be correct in that the main purpose adjusting the high beam illuminator chamber 19 (as disclosed by MOCHIZUKI et al.) is entirely different from that of the instant invention, such considerations are directed to the function performed by the claimed structure. As the applicant would surely agree, the vertical adjusting action member of MOCHIZUKI et al., if automated, would be perfectly capable of performing the argued functions.

However, even if the function performed by the instant invention was considered to positively define the claimed structure, it is noted that the features upon which applicant relies (i.e., vertically adjusting the vertical adjusting action member in response to high beam, low beam and flash operational modes of the vehicle) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

**Conclusion**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (571) 272-2378. The facsimile machine number for the Art Group is (571) 273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.

  
Ismael Negrón  
Examiner  
AU 2875